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PATENT COOPERATION TREATY

PCT

DECLARATION OF NON-ESTABLISHMENT OF INTERNATIONAL SEARCH REPORT

(PCT Article 17(2)(a), Rules 13ter.1(c) and 39)

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| Applicant's or agent's file reference | IMPORTANT DECLARATION | Date of mailing (day/month/year) 13/05/2005 |
| International application No. PCT/CH2005/000013 | International filing date (day/month/year) 14/01/2005 | (Earliest) Priority Date (day/month/year) 23/01/2004 |
| International Patent Classification (IPC) or both national classification and IPC G05B13/04A | | |
| Applicant GLOBAL SCALING TECHNOLOGIES AG | | |

This International Searching Authority hereby declares, according to Article 17(2)(a), that no international search report will be established on the international application for the reasons indicated below.

1. ☐ The subject matter of the international application relates to:
 - a. ☐ scientific theories.
 - b. ☐ mathematical theories.
 - c. ☐ plant varieties.
 - d. ☐ animal varieties.
 - e. ☐ essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes.
 - f. ☐ schemes, rules or methods of doing business.
 - g. ☐ schemes, rules or methods of performing purely mental acts.
 - h. ☐ schemes, rules or methods of playing games.
 - i. ☐ methods for treatment of the human body by surgery or therapy.
 - j. ☐ methods for treatment of the animal body by surgery or therapy.
 - k. ☐ diagnostic methods practised on the human or animal body.
 - l. ☐ mere presentations of information.
 - m. ☐ computer programs for which this International Searching Authority is not equipped to search prior art.
2. ☒ The failure of the following parts of the international application to comply with prescribed requirements prevents a meaningful search from being carried out:

☒ the description
☒ the claims
☐ the drawings
3. ☐ The failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions prevents a meaningful search from being carried out:

☐ the written form has not been furnished or does not comply with the standard.
 ☐ the computer readable form has not been furnished or does not comply with the standard.
4. Further comments:

| | |
|--------------------------------------|---|
| Name and mailing address of the ISA/ | Authorized officer Petros Koutsoftas |
| Facsimile No. | Telephone No. |

The claims are so unclear that a meaningful search is not possible, for the following reasons:

The designations "GS analysis", "global scaling analysis", "GS optimal nominal values of the influencing variables" and "global scaling (GS) optimized" in claims 1 to 3 and 6 are not standard technical terms in the field of process control and optimization and are therefore unclear to a person skilled in the art (PCT Article 6, first sentence).

A person skilled in the art would therefore refer to the description in the present application. On pages 5 and 6 of the description a method is described comprising steps 1 to 8. These steps, however, do not match the steps a) to g) of the method according to claim 1. The description accordingly shows a different method, from which it is not clear how this method relates to the method claimed. Thus, in light of the description the claims remain entirely unclear. It follows then too that the claimed method is not fully supported by the description (PCT Article 6, third sentence).

Moreover, neither in the claims nor in the description and figures is it clearly and fully disclosed how the values arrived at are "optimal". This stems from the fact that a "global scaling optimization" does not involve a standard or known technical optimization criterion and the theory of "global scaling" is not considered a recognized method in physics. This shows a lack of clear and complete disclosure of the invention, and hence a person skilled in the art is not in a position to carry out the method (PCT Article 5) and the subject matter to be searched remains entirely unclear.

Finally, in step d) in claim 1 the term "current optimization methods" is so vague and unclear that the scope of protection claimed cannot be determined (PCT Article 6).

The applicant is advised that claims relating to inventions in respect of which no international search report has been established normally cannot be the subject of an international preliminary examination (PCT Rule 66.1(e)). In its capacity as International Preliminary Examining Authority the EPO generally will not carry out a preliminary examination for subjects that have not been searched. This also applies to cases where the claims were amended after receipt of the international search report (PCT Article 19) or where the applicant submits new claims in the course of the procedure under PCT Chapter II. After entry into the regional phase before the EPO, however, an additional search can be carried out in the course of the examination (cf. EPO Guidelines, Part C, VI, 8.5) if the deficiencies that led to the declaration under PCT Article 17(2) have been remedied.